

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JOHN KEVIN WALTON,

Plaintiff,

vs.

NEMANJA VIDAKOVIC, Officer;  
ZACHARY KINSELLA, Officer;  
GABRIEL PENHAERRERA, KATIE  
STENNECHE, Sargent; TAMMIE  
JENSEN, Mental Health Coordinator;  
CAPTAIN WEST, and LT.  
MORRISON,

Defendants.

**8:20CV123**

**MEMORANDUM AND ORDER**

This matter is before the court for case management. On July 13, 2020, the court received notice that Plaintiff was no longer incarcerated at Douglas County Corrections (“DCC”). ([Filing 8 at CM/ECF p. 2](#), Case No. 8:20CV249.) Plaintiff indicated in a filing in 8:20CV249 ([filing 5 at CM/ECF p. 3](#), Case No. 8:20CV249) that he would be moving to the Nebraska State Penitentiary and the Nebraska Department of Correctional Services (“NDCS”) website reflects that Plaintiff is now in custody in the Diagnostic and Evaluation Center.<sup>1</sup> The court has updated Plaintiff’s address accordingly.

In providing notice of Plaintiff’s release, DCC also asked the court to advise it on how to proceed for the various court ordered initial partial filing fee payments in this case as well as Plaintiff’s other pending matters: 8:20CV155, 8:20CV224, 8:20CV239, and 8:20CV249. In the present case, the court entered an order on June 30, 2020 ([filing 11](#)) directing DCC to remit payment of Plaintiff’s \$4.00

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<sup>1</sup> See [https://dcs-inmatesearch.ne.gov/Corrections/COR\\_input.html](https://dcs-inmatesearch.ne.gov/Corrections/COR_input.html).

initial partial filing fee. Clearly, however, DCC is no longer responsible for collecting payments in this or any of Plaintiff's cases as Plaintiff is no longer incarcerated in that institution. Rather, Plaintiff's present institution within the NDCS is responsible for collecting and remitting payment of Plaintiff's filing fees.

Pursuant to [28 U.S.C. § 1915\(b\)\(1\)](#), the court has determined that Plaintiff must pay an initial partial filing fee of \$4.00. (See [Filing 6](#).) As Plaintiff has moved to a new facility, Plaintiff must take whatever steps are necessary to permit his current institution to remit payment of his initial partial filing fee. Plaintiff must pay his initial partial filing fee within 30 days or his case will be subject to dismissal. Plaintiff may request an extension of time if one is needed.

In addition to the initial partial filing fee, Plaintiff must "make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account." [28 U.S.C. § 1915\(b\)\(2\)](#). The statute places the burden on the prisoner's institution to collect the additional monthly payments and forward them to the court as follows:

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

[28 U.S.C. § 1915\(b\)\(2\)](#). Therefore, after payment in full of the initial partial filing fee, Plaintiff's present institution must collect the remaining installments of the filing fee and forward the payments to the court.

Plaintiff is advised he will remain responsible for the entire filing fee, as long as he is a prisoner, even if the case is dismissed at some later time. See [In re Tyler](#), 110 F.3d at 529–30; [Jackson](#), 173 F. Supp. 2d at 951.

IT IS THEREFORE ORDERED that:

1. Plaintiff must pay an initial partial filing fee of \$4.00 within 30 days, unless the court extends the time in which he has to pay in response to a written motion.

3. After payment of the initial partial filing fee, Plaintiff's institution must collect the additional monthly payments in the manner set forth in [28 U.S.C. § 1915\(b\)\(2\)](#), quoted above, and forward those payments to the court.

4. The clerk's office is directed to send a copy of this order to the appropriate official at Plaintiff's institution—the Nebraska Department of Correctional Services' Diagnostic & Evaluation Center.

5. The clerk's office is directed to set a pro se case management deadline in this case using the following text: **August 17, 2020**: initial partial filing fee payment due.

6. Plaintiff is advised that, following payment of the initial partial filing fee, the next step in Plaintiff's case will be for the court to conduct an initial review of Plaintiff's claims to determine whether summary dismissal is appropriate under [28 U.S.C. § 1915\(e\)\(2\)](#). The court will conduct this initial review in its normal course of business.

7. The clerk's office is directed to send a copy of this order to the Douglas County Corrections Inmate Accounts and Services Supervisor. This order shall serve as a response to DCC's letter in [filing 8](#), Case No. 8:20CV249. DCC is advised that it is no longer responsible for the collection and payment of Plaintiff's initial partial filing fees in cases 8:20CV123, 8:20CV155, 8:20CV224, 8:20CV239, and 8:20CV249.

Dated this 17th day of July, 2020.

BY THE COURT:

A handwritten signature in blue ink that reads "Richard G. Kopf". The signature is written in a cursive, flowing style.

Richard G. Kopf  
Senior United States District Judge